HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.301 of 1991
Date of decision : 23.5.2007

Sh.Bhupinder Singh **.....Petitioner**

versus

Shri Hari Ram **.....Respondent**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present: None for the petitioner.
Mr.Amit Aggarwal, Advocate for the respondent.

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ORDER

HEMANT GUPTA, J.

The landlord is in revision aggrieved against the order passed by the learned Appellate Authority whereby the eviction petition filed by the petitioner-landlord on the ground that the demised premises is unfit and unsafe for human habitation, was dismissed in appeal.

It is the case of the landlord that the demised premises in occupation of the tenant is unfit and unsafe for human habitation. The learned Rent Controller allowed the ejectment petition holding that the substantial part of the larger integrated building is in dilapidated condition and, therefore, the respondent is liable to be evicted even if the premises in his possession is fit for human habitation. However, the learned Appellate Authority found that the tenant is in

possession of the area measuring 268 square feet, whereas the portion which is damaged is about 100 square feet and, therefore, the larger portion of the integrated building is fit for human habitation and consequently, reversed the findings recorded by the learned Rent Controller.

During the course of trial, the learned Rent Controller inspected the premises in terms of the order dated 3.8.1987 whereby the application filed by the petitioner-landlord for spot inspection by the Court, was allowed as the other side had no objection. The inspection report shows that three rooms in possession of the tenant marked as A, B & C are in habitable condition and no defect could be pointed out by the petitioner in the ceilings, walls and flooring of these three rooms. The *Karies* of all the three rooms were found in tact. It is the rooms marked as D & E in possession of another tenant Shanti Devi, are found to be in dilapidated condition. The roof has fallen down and the room marked as F is found to be in dilapidated condition. The said description of the property is on the basis of site plan Exhibit C-1. A perusal of the site plan shows that the rooms marked as A, B & C are in northern side of the building, whereas the rooms marked as D & E are on the rear side of the aforesaid rooms. Even if the roof of the rooms marked as D & E has fallen down, it does not effect the other three rooms situated on the northern side.

Thus, the finding recorded by the learned Appellate Authority that the larger portion of the building is fit for human habitation is in

consonance with the view of the Division Bench of this Court in ***Sardarni Sampurna Kaur versus Sant Singh, AIR-1982, Punjab & Haryana-245.***

In view of the above, I do not find any illegality or irregularity in the order passed by the learned Appellate Authority which may warrant interference of this Court in exercise of its revisional jurisdiction.

Dismissed.

(HEMANT GUPTA)
JUDGE

May 23, 2007
**mohinder*